

110TH CONGRESS  
2D SESSION

# S. 3371

To amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction.

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## IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Ms. SNOWE (for herself and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Home Office Tax De-  
5       duction Simplification and Improvement Act of 2008”.

6       **SEC. 2. OPTIONAL STANDARD HOME OFFICE DEDUCTION.**

7       (a) IN GENERAL.—Subsection (c) of section 280A of  
8       the Internal Revenue Code of 1986 (relating to exceptions

1 for certain business or rental use; limitation on deductions  
 2 for such use) is amended by adding at the end the fol-  
 3 lowing new paragraph:

4           “(7) ELECTION OF STANDARD HOME OFFICE  
 5 DEDUCTION.—

6           “(A) IN GENERAL.—In the case of an indi-  
 7 vidual who is allowed a deduction for the use of  
 8 a portion of a dwelling unit as a business by  
 9 reason of paragraph (1), (2), or (4), notwith-  
 10 standing the limitations of paragraph (5), if  
 11 such individual elects the application of this  
 12 paragraph for the taxable year with respect to  
 13 such dwelling unit, such individual shall be al-  
 14 lowed a deduction equal to the standard home  
 15 office deduction for the taxable year in lieu of  
 16 the deductions otherwise allowable under this  
 17 chapter for such taxable year by reason of para-  
 18 graph (1), (2), or (4).

19           “(B) STANDARD HOME OFFICE DEDUC-  
 20 TION.—

21           “(i) IN GENERAL.—For purposes of  
 22 this paragraph, the standard home office  
 23 deduction is an amount equal to the prod-  
 24 uct of—

1 “(I) the applicable home office  
2 standard rate, and

3 “(II) the square footage of the  
4 portion of the dwelling unit to which  
5 paragraph (1), (2), or (4) applies.

6 “(ii) APPLICABLE HOME OFFICE  
7 STANDARD RATE.—For purposes of this  
8 subparagraph, the term ‘applicable home  
9 office standard rate’ means the rate appli-  
10 cable to the taxpayer’s category of busi-  
11 ness, as determined and published by the  
12 Secretary for the 3 categories of businesses  
13 described in paragraphs (1), (2), and (4)  
14 for the taxable year.

15 “(iii) MAXIMUM SQUARE FOOTAGE  
16 TAKEN INTO ACCOUNT.—The Secretary  
17 shall determine and publish annually the  
18 maximum square footage that may be  
19 taken into account under clause (i)(II) for  
20 each of the 3 categories of businesses de-  
21 scribed in paragraphs (1), (2), and (4) for  
22 the taxable year.

23 “(C) EFFECT OF ELECTION.—

24 “(i) GENERAL RULE.—Except as pro-  
25 vided in clause (ii), any election under this

paragraph, once made by the taxpayer with respect to any dwelling unit, shall continue to apply with respect to such dwelling unit for each succeeding taxable year.

“(ii) ONE-TIME ELECTION PER DWELLING UNIT.—A taxpayer who elects the application of this paragraph in a taxable year with respect to any dwelling unit may revoke such application in a subsequent taxable year. After so revoking, the taxpayer may not elect the application of this paragraph with respect to such dwelling unit in any subsequent taxable year.

“(D) DENIAL OF DOUBLE BENEFIT.—

“(i) IN GENERAL.—Except as provided in clause (ii), in the case of a taxpayer who elects the application of this paragraph for the taxable year, no other deduction or credit shall be allowed under this subtitle for such taxable year for any amount attributable to the portion of a dwelling unit taken into account under this paragraph.

“(ii) EXCEPTION FOR DISASTER LOSSES.—A taxpayer who elects the appli-

cation of this paragraph in any taxable year may take into account any disaster loss described in section 165(i) as a loss under section 165 for the applicable taxable year, in addition to the standard home office deduction under this paragraph for such taxable year.

“(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.”.

(b) MODIFICATION OF HOME OFFICE BUSINESS USE

RULES.—

(1) PLACE OF MEETING.—Subparagraph (B) of section 280A(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) as a place of business which is used by the taxpayer in meeting or dealing with patients, clients, or customers in the normal course of the taxpayer’s trade or business, or”.

(2) DE MINIMIS PERSONAL USE.—Paragraph (1) of section 280A(c) of such Code is amended by striking “for the convenience of his employer” and inserting “for the convenience of such employee’s employer. A portion of a dwelling unit shall not fail to be deemed as exclusively used for business for

1 purposes of this paragraph solely because a de mini-  
2 mis amount of non-business activity may be carried  
3 out in such portion”.

4 (c) REPORTING OF EXPENSES RELATING TO HOME  
5 OFFICE DEDUCTION.—Within 60 days after the date of  
6 the enactment of this Act, the Secretary of the Treasury  
7 shall ensure that all forms and schedules used to calculate  
8 or report itemized deductions and profits or losses from  
9 business or farming state separately amounts attributable  
10 to real estate taxes, mortgage interest, and depreciation  
11 for purposes of the deductions allowable under paragraphs  
12 (1), (2), (4), and (7) of section 280A(c) of the Internal  
13 Revenue Code of 1986.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2008.

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